

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION**

TERESA O'BRIEN,

Plaintiff,

v.

**JOSEPHINE COUNTY SHERIFF'S
OFFICE, *et al.*,**

Defendants.

No. 1:19-cv-01053-CL

ORDER

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation ("F&R") filed by Magistrate Judge Mark Clarke. ECF No. 108. Judge Clarke recommends that Defendants Motion for Summary Judgment, ECF No. 76, be granted in part and denied in part and that the evidentiary objections of both parties be overruled.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review.

See Thomas v. Arn, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Although no review is required in the absence of objections, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court should review the recommendation for “clear error on the face of the record.”

Here, both parties have filed Objections, ECF Nos. 114, 115, and both parties have filed Responses to the other party’s Objections, ECF Nos. 116, 117. The Court has reviewed the record and finds no error in the F&R. The F&R is therefore ADOPTED. The evidentiary objections of both parties are overruled. Defendants’ Motion for Summary Judgment, ECF No. 76, is GRANTED in part and DENIED in part. Summary judgment is granted as to Plaintiffs claims for gender discrimination under ORS 659A.875; Title VII disparate treatment; aiding and abetting under ORS 659A.030; intentional infliction of emotional distress; and all constitutional claims brought under 42 U.S.C. § 1983. Summary judgment is denied as to all other claims.

It is so ORDERED and DATED this 19th day of April 2024.

/s/Ann Aiken
ANN AIKEN
United States District Judge